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Fargo, North Dakota 58402
(701) 241-8632
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January 4, 2018

—VIA ELECTRONIC FILING—
- FEDERAL EXPRESS -

Darrell Nitschke, Executive Director
North Dakota Public Service Commission
State Capitol Building, Sept 408
600 East Boulevard
Bismarck, ND 58505-0480

RE: COMPLIANCE FILING - COURTENAY WIND PROJECT SITING
CASE NO. PU-15-174

Dear Mr. Nitschke:

Northern States Power Company, doing business as Xcel Energy (the Company), submits to the North Dakota Public Service Commission (Commission) this compliance filing in the above-referenced matter. This filing is being made pursuant to *Section 4.0, Issues to Resolve and Recommendations*, of the Post-Construction Inspection Report prepared by Wenck Associates, Inc. for the Commission, dated October 2017. The following required items are attached to this filing:

- As-built maps and associated GIS/CAD files – please see Attachment A to this filing. Due to the voluminous size of the documents, Attachment A is being provide on a CD via Federal Express.
- Documentation of Tree and Shrub Replacement, Planting Report, and annual survival Reports for three years following planting. Attachment B is a letter signed by the one landowner that had a tree removed during the construction of the wind farm. As reported in 2016 pursuant to the Certification Relating to Order Provisions Energy Conversion Facility Siting, *Tree and Shrub Mitigation Specifications; Replacement, Section 13*, dated July 3, 2013, which provides the homeowner the opportunity to waive the right to have replacement trees planted on landowner's property and instead, have replacement trees planted off the landowner's property. The landowner waived their right to the replanting of trees to their property and instead asked that the replacement trees be donated to the City of Wimbledon's Memorial. Current photos are included with Attachment B.

- Documentation on coordination with the U.S. Fish and Wildlife Service (USFWS) about active eagle nest in Project Area. Coordination with USFWS on the Courtenay Wind Farm (CWF) project began early in the wind farm development process in 2010. The project developer incorporated USFWS input into project design and protocols for pre-construction wildlife surveys. Ongoing coordination with USFWS occurred throughout project development, and the USFWS was kept informed of project status changes and survey results.

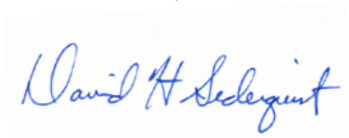
In 2013, the project developer informed USFWS that an active eagle nest was discovered within the project area during that year's field surveys. The project developer also informed the USFWS of the intent to move forward with efforts in compliance with the USFWS Eagle Conservation Plan Guidance.

Since that time, Xcel Energy has worked closely with USFWS to develop an Eagle Conservation Plan (ECP) that assesses impacts to bald eagles from development and operation of CWF and prescribes avoidance and minimization measures to reduce the risk to eagles. Following construction of CWF, coordination with USFWS has remained ongoing, and the impacts to eagle and other birds and bats are being monitored through post-construction mortality monitoring and other survey work.

- USACE wetland permit/easement coordination: A letter dated December 26, 2013, was received from the Department of the Army Corps of Engineers stating that the identified project area did not include waters of the United States and was not subject to Section 404 of the Clean Water Act and that no permit was required from the Corps. Please see Attachment C for the letter and jurisdictional determination.

If you have any questions or concerns regarding this matter, please contact me at dave.sederquist@xcelenergy.com or (701) 241-8632.

SINCERELY,



David H. Sederquist
Sr. Consultant, Regulation & Finance
Enclosure



414 Nicollet Mall
Minneapolis, MN 55401

September 15, 2016

—VIA ELECTRONIC FILING—

Darrell Nitschke, Executive Director
North Dakota Public Service Commission
State Capitol Building, Sept 408
600 East Boulevard
Bismarck, ND 59505-0480

RE: COMPLIANCE FILING
COURTENAY WIND FARM PROJECT
CASE NO. PU-15-174

Dear Mr. Nitschke:

Northern States Power Company, doing business as Xcel Energy (the Company), submits to the North Dakota Public Service Commission (the Commission) this compliance filing in the above-referenced matter. This filing is being made pursuant to the Certification Relating to Order Provisions Energy Conversion Facility Siting, *Tree and Shrub Mitigation Specifications; Replacement, Section 13*, dated July 3, 2013, for Courtenay Wind Farm, LLC, which provides the homeowner the opportunity to waive the right to have replacement trees planted on landowner's property and instead, have replacement trees planted off the landowner's property.

If you have any questions or concerns regarding this matter, please contact me at dave.sederquist@xcelenergy.com or (701) 241-8632.

SINCERELY,

A handwritten signature in blue ink that reads 'David H. Sederquist'.

David H. Sederquist
Sr. Consultant, Regulation & Finance
Enclosure



414 Nicollet Mall
Minneapolis, Minnesota 55401-1993

August 19, 2016

Ralph and Sandra Dick
9595 25th St. SE
Wimbledon, ND 58492

**COURTENAY WIND FARM
TREE REPLACEMENT
NW1/4, SEC. 24, T143, R63, STUTSMAN COUNTY, ND**

Dear Ralph and Sandy;

During the 2015 wind farm construction season it was necessary to remove a tree on the above mentioned parcel of property. As a requirement of our site permit, Xcel Energy and its contractor, Wanzek Construction, are required to replace the trees that have been removed two for one.

In our discussions you have indicated you are agreeable to waive your rights to this replanting. Instead your replacement trees will be donated to the City of Wimbledon's memorial that is currently under construction. We want to thank you for your contribution to this project.

Thank you for your courtesy and cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chad Peterson'.

Chad Peterson
Senior Land Rights Agent
Siting and Land Rights Dept.
612-330-7825
chad.t.peterson@xcelenergy.com

ACCEPTED:

By A handwritten signature in black ink, appearing to read 'Ralph Dick'.

Ralph Dick

cc: Jeff Berrington









DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, OMAHA DISTRICT
NORTH DAKOTA REGULATORY OFFICE
1513 SOUTH 12TH STREET
BISMARCK ND 58504-6640

December 26, 2013

North Dakota Regulatory Office

[NWO-2013-2283-BIS]

Ms. Kathy Bellrichard
Tetra Tech, Inc.
2001 Killebrew Drive, Suite 141
Bloomington, Minnesota 55425

Dear Ms. Bellrichard:

We have reviewed your request for a jurisdictional determination (JD), on behalf of Geronimo Energy, for the Courtenay Wind Energy Project. The project is located near the City of Courtenay, in Stutsman County, North Dakota.

Based on the information that you provided, we have determined that the identified project area, delineated wetlands and other waters, does not include waters of the United States. Therefore, the project is not subject to Section 404 of the Clean Water Act and no permit is required from the Corps.

An approved JD has been completed for the wetland areas identified in your requests and is enclosed for your information. The JD may also be viewed at our website located at:
<http://www.nwo.usace.army.mil/Missions/RegulatoryProgram/NorthDakota.aspx>.

The JD will be available on the website within 30 days. You may also request copies of the supporting materials the Corps used in determining this JD. If you are not in agreement with the JD, you may request an administrative appeal under Corps regulations found at 33 CFR 331 (Request for Appeal (RFA) enclosed). The request for appeal must be received within 60 days from the date of this correspondence. If you would like more information on the jurisdictional appeal process, contact this office. It is not necessary to submit a RFA if you do not object to the JD. The JD will be valid for a period of 5 years from the date of this letter.

Although a DA permit is not required, it does not eliminate the need to obtain other Federal, state, tribal, and local approvals that may have regulatory jurisdiction over this project.

The Omaha District, North Dakota Regulatory Office is committed to providing quality and timely service to our customers. In an effort to improve customer service, please take a moment to complete our Customer Service Survey found on our website at <http://per2.nwp.usace.army.mil/survey.html>. If you do not have Internet access, you may call and request a paper copy of the survey that you can complete and return to us by mail or fax.

If you have any questions regarding this determination or jurisdiction, please feel free to contact me at telephone number (701) 255-0015 and reference Corps No. NWO-2013-2283-BIS.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matt J. Mikulecky", with a stylized flourish at the end.

Matthew J. Mikulecky
Acting Regulatory Program Manager
North Dakota

Enclosures

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): December 26, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER:

Omaha District | Geronimo Energy; Courtenay Wind Energy Project; Isolated Wetlands/Waters | NWO-2013-2283-BIS |

C. PROJECT LOCATION AND BACKGROUND INFORMATION: Isolated Pothole Wetlands & Lacustrine Wetlands

State: North Dakota County/parish/borough: Stutsman City: Courtenay

Center coordinates of site (lat/long in degree decimal format): Lat.47.192054N; Long.-98.6131W

Universal Transverse Mercator: 14

Name of nearest waterbody: Stony Brook; Sevenmile Coulee; James River

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: None – Hydrologically & Geographically Isolated Waters

Name of watershed or Hydrologic Unit Code (HUC): Upper James; James Headwaters; Lower Sheyenne

☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: November 27, 2013

☒ Field Determination. Date(s): Consultant conducted wetlands & waters survey occurring in June, July, August & September 2013.

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** “navigable waters of the U.S.” within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

☐ Waters subject to the ebb and flow of the tide.

☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are no** “waters of the U.S.” within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply):¹

- ☐ TNWs, including territorial seas
- ☐ Wetlands adjacent to TNWs
- ☐ Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs
- ☐ Non-RPWs that flow directly or indirectly into TNWs
- ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
- ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- ☐ Impoundments of jurisdictional waters
- ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters: linear feet

Wetlands: acres.

c. Limits (boundaries) of jurisdiction based on: Not Applicable.

Elevation of established OHWM (if known):

¹ Boxes checked below shall be supported by completing the appropriate sections in Section III below.

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least “seasonally” (e.g., typically 3 months).

2. **Non-regulated waters/wetlands (check if applicable):**³

- ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: The JD requested review area consists of 209 isolated prairie pothole wetlands/complexes and glacial lake (lacustrine) basins. A wetland/waters table is attached which depicts the size, type and location of each identified waterbody. These waters were identified and surveyed in the field over the course of four months. The Wetlands and Waters Survey Report indicates that no TNWs, RPWs or NonRPWS are located within the Study Area. The report further suggests that the identified waters do not exhibit a nexus to TNWs, with a recommendation that the waters are not subject to Section 404 Clean Water Act jurisdiction.

The Corps has reviewed these waters independently in an effort to identify any potential streams, drainageways, swales or other features that may exist within the area and provide a continuous surface conveyance to other waters and/or waters of the United States. Upon our review of the individual waters and the perimeter of the study area, it was determined that the identified waters lack discernible hydrologic surface connections to any potential waters of the United States. The aquatic resources within the review area consist primarily of prairie potholes and glacial lake basins. These are consistent with the Drift Plains ecoregion of North Dakota. The rolling landscape is dotted with closed wetland and lake basins having no outlets (terminal basins). In some cases, wetlands and lake basins can connect and form complexes during wet cycles. Based upon these observations, it is determined that the identified wetlands are geographically and hydrologically isolated within the landscape. A topographic map is attached to depict the study area and numerous closed basins within.

Lastly, the Corps is not aware of any interstate or foreign commerce nexus, waterborne recreation or a science based inference for ecological interconnection between these waters and any potential waters of the United States. Therefore it is determined that the subject wetlands/waters are isolated, intrastate, nonnavigable and nonjurisdictional under current guidance and instruction on Section 404 Clean Water Act jurisdiction.

SECTION III: CWA ANALYSIS**A. TNWs AND WETLANDS ADJACENT TO TNWs**

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. **TNW**

Identify TNW: .

Summarize rationale supporting determination: .

2. **Wetland adjacent to TNW**

Summarize rationale supporting conclusion that wetland is "adjacent": .

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody⁴ is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must

³ Supporting documentation is presented in Section III.F.

⁴ Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:

Watershed size: **Pick List**
 Drainage area: **Pick List**
 Average annual rainfall: inches
 Average annual snowfall: inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

- ☐ Tributary flows directly into TNW.
☐ Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.
 Project waters are **Pick List** river miles from RPW.
 Project waters are **Pick List** aerial (straight) miles from TNW.
 Project waters are **Pick List** aerial (straight) miles from RPW.
 Project waters cross or serve as state boundaries. Explain:

Identify flow route to TNW⁵:
 Tributary stream order, if known:

(b) General Tributary Characteristics (check all that apply):

Tributary is: ☐ Natural
☐ Artificial (man-made). Explain:
☐ Manipulated (man-altered). Explain:

Tributary properties with respect to top of bank (estimate):

Average width: feet
 Average depth: feet
 Average side slopes: **Pick List**.

Primary tributary substrate composition (check all that apply):

☐ Silts ☐ Sands ☐ Concrete
☐ Cobbles ☐ Gravel ☐ Muck
☐ Bedrock ☐ Vegetation. Type/% cover:
☐ Other. Explain:

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:

Presence of run/riffle/pool complexes. Explain:

Tributary geometry: **Pick List**

Tributary gradient (approximate average slope): %

(c) Flow:

Tributary provides for: **Pick List**

Estimate average number of flow events in review area/year: **Pick List**

Describe flow regime:

Other information on duration and volume:

Surface flow is: **Pick List**. Characteristics:

Subsurface flow: **Pick List**. Explain findings:

☐ Dye (or other) test performed:

Tributary has (check all that apply):

☐ Bed and banks
☐ OHWM⁶ (check all indicators that apply):

⁵ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

- | | |
|--|---|
| <input type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> the presence of litter and debris |
| <input type="checkbox"/> changes in the character of soil | <input type="checkbox"/> destruction of terrestrial vegetation |
| <input type="checkbox"/> shelving | <input type="checkbox"/> the presence of wrack line |
| <input type="checkbox"/> vegetation matted down, bent, or absent | <input type="checkbox"/> sediment sorting |
| <input type="checkbox"/> leaf litter disturbed or washed away | <input type="checkbox"/> scour |
| <input type="checkbox"/> sediment deposition | <input type="checkbox"/> multiple observed or predicted flow events |
| <input type="checkbox"/> water staining | <input type="checkbox"/> abrupt change in plant community |
| <input type="checkbox"/> other (list): | |
- ☐ Discontinuous OHWM.⁷ Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> High Tide Line indicated by: | <input type="checkbox"/> Mean High Water Mark indicated by: |
| <input type="checkbox"/> oil or scum line along shore objects | <input type="checkbox"/> survey to available datum; |
| <input type="checkbox"/> fine shell or debris deposits (foreshore) | <input type="checkbox"/> physical markings; |
| <input type="checkbox"/> physical markings/characteristics | <input type="checkbox"/> vegetation lines/changes in vegetation types. |
| <input type="checkbox"/> tidal gauges | |
| <input type="checkbox"/> other (list): | |

(iii) **Chemical Characteristics:**

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: .

Identify specific pollutants, if known: .

(iv) **Biological Characteristics. Channel supports (check all that apply):**

- ☐ Riparian corridor. Characteristics (type, average width): .
- ☐ Wetland fringe. Characteristics: .
- ☐ Habitat for:
- ☐ Federally Listed species. Explain findings: .
- ☐ Fish/spawn areas. Explain findings: .
- ☐ Other environmentally-sensitive species. Explain findings: .
- ☐ Aquatic/wildlife diversity. Explain findings: .

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size: acres

Wetland type. Explain: .

Wetland quality. Explain: .

Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain: .

Surface flow is: **Pick List**

Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Directly abutting
- ☐ Not directly abutting
- ☐ Discrete wetland hydrologic connection. Explain: .
- ☐ Ecological connection. Explain: .
- ☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

⁶A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁷Ibid.

Flow is from: **Pick List**.

Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain:

Identify specific pollutants, if known:

(iii) **Biological Characteristics. Wetland supports (check all that apply):**

☐ Riparian buffer. Characteristics (type, average width):

☐ Vegetation type/percent cover. Explain:

☐ Habitat for:

☐ Federally Listed species. Explain findings:

☐ Fish/spawn areas. Explain findings:

☐ Other environmentally-sensitive species. Explain findings:

☐ Aquatic/wildlife diversity. Explain findings:

3. **Characteristics of all wetlands adjacent to the tributary (if any)**

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately () acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)

Size (in acres)

Directly abuts? (Y/N)

Size (in acres)

Summarize overall biological, chemical and physical functions being performed:

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:

☐ TNWs: linear feet width (ft), Or, acres.
☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**

☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:
☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

Provide estimates for jurisdictional waters in the review area (check all that apply):

☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
 Identify type(s) of waters:

3. **Non-RPWs⁸ that flow directly or indirectly into TNWs.**

☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
 Identify type(s) of waters:

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**

☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**

☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

7. **Impoundments of jurisdictional waters.⁹**

⁸See Footnote # 3.

⁹ To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- ☐ Demonstrate that impoundment was created from "waters of the U.S.," or
☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):¹⁰

- ☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .
☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):

- ☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
 Identify type(s) of waters: .
☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

- ☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☒ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
☒ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
☐ Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
☒ Lakes/ponds: **409 (lacustrine)** acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☒ Wetlands: **579** acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- ☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

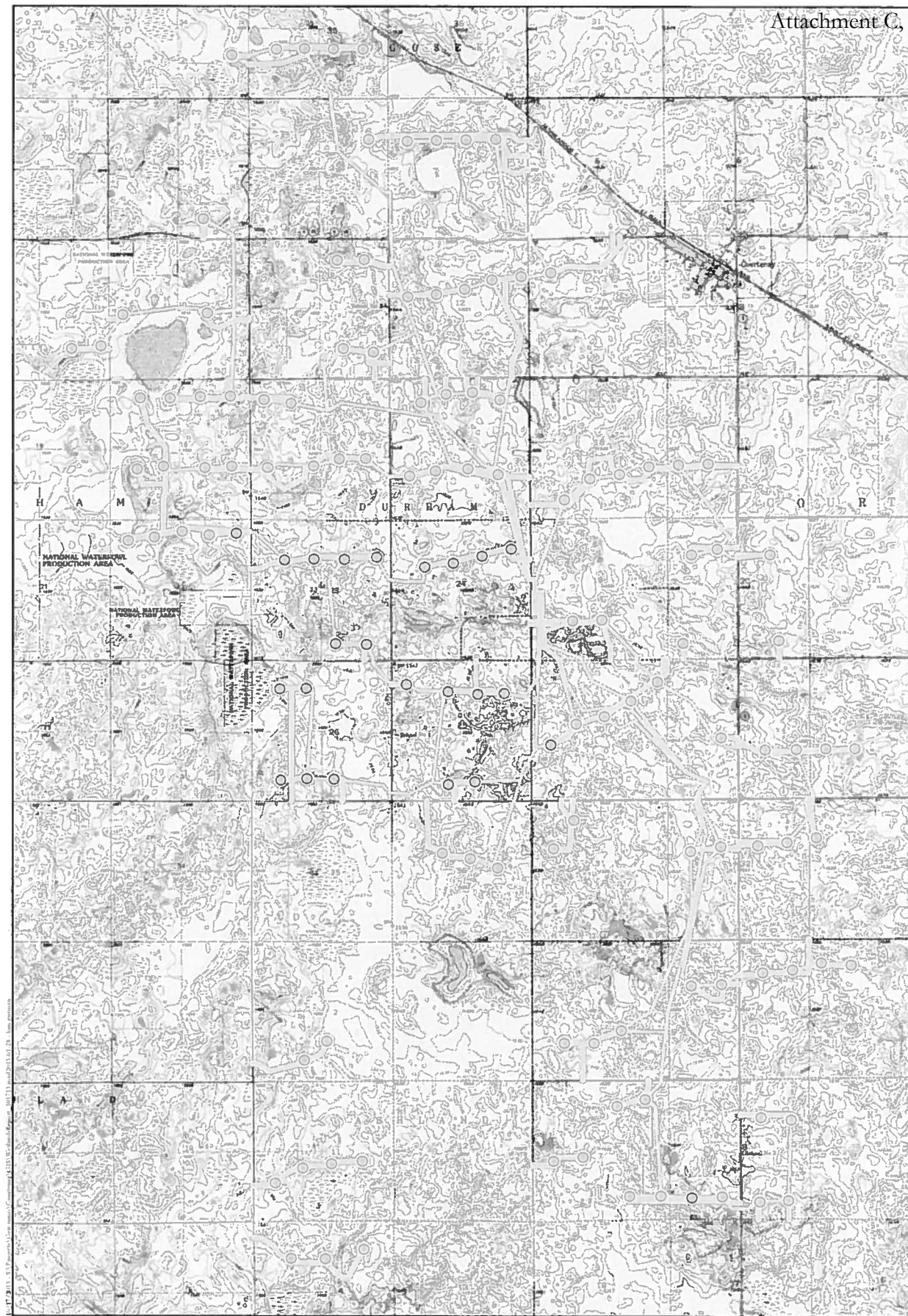
A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

- ☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: **Wetlands and Waters Survey (October 2013).**
☐ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
☐ Office concurs with data sheets/delineation report.
☐ Office does not concur with data sheets/delineation report.
☐ Data sheets prepared by the Corps: .
☐ Corps navigable waters' study: .
☐ U.S. Geological Survey Hydrologic Atlas: .
☐ USGS NHD data.
☐ USGS 8 and 12 digit HUC maps.

¹⁰ Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

- ☒ U.S. Geological Survey map(s). Cite scale & quad name: **Courtenay; Courtenay NW; Fried; & Spiritwood Lake - ND.**
- ☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
- ☒ National wetlands inventory map(s). Cite name: **USFWS - NWI.**
- ☐ State/Local wetland inventory map(s): .
- ☐ FEMA/FIRM maps: .
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- ☒ Photographs: ☒ Aerial (Name & Date): **Google Earth Pro – 2005-2011; NAIP 2012**
or ☒ Other (Name & Date): **Onsite photographs within October 2013 survey report.**
- ☐ Previous determination(s). File no. and date of response letter: .
- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☐ Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD: See attached topographic map and wetland/waters table for location information.



Source: Map adapted from data provided by Arc GIS Online (USA Topo), and Project data provided by Germano Energy.



Facility Layout

- Proposed Turbine Location (7/24/2013)
- Survey Corridor



Figure 1 - Project Location
Courtenay Wind Energy Project
Stutsman County, North Dakota



Waters_Name	Cowadin_Code	HGM_Code	Measurement_Type	Amount	Units	Waters_Types	Latitude	Longitude
NWO-2013-2283-BIS #339	PEM	DEPRESS	Area	0.187	ACRE	ISOLATE	47.195081882	-98.596694888
NWO-2013-2283-BIS #341	PEM	DEPRESS	Area	0.738	ACRE	ISOLATE	47.193828312	-98.596846238
NWO-2013-2283-BIS #366	PEM	DEPRESS	Area	0.406	ACRE	ISOLATE	47.180934060	-98.602137012
NWO-2013-2283-BIS #A003	PEM1	DEPRESS	Area	0.424	ACRE	ISOLATE	47.120388065	-98.628724265
NWO-2013-2283-BIS #A007	PEM1	DEPRESS	Area	1.454	ACRE	ISOLATE	47.129099383	-98.633181615
NWO-2013-2283-BIS #A008	PEM1	DEPRESS	Area	2.166	ACRE	ISOLATE	47.128699657	-98.631142996
NWO-2013-2283-BIS #A010	PEM2	DEPRESS	Area	0.091	ACRE	ISOLATE	47.130349613	-98.628009947
NWO-2013-2283-BIS #A011	PEM1	DEPRESS	Area	1.769	ACRE	ISOLATE	47.130710128	-98.625616426
NWO-2013-2283-BIS #A013	PEM1	DEPRESS	Area	2.218	ACRE	ISOLATE	47.131152626	-98.621063741
NWO-2013-2283-BIS #A014	PEM2	DEPRESS	Area	0.074	ACRE	ISOLATE	47.130970410	-98.620297320
NWO-2013-2283-BIS #A019	PEM1	DEPRESS	Area	2.414	ACRE	ISOLATE	47.166598667	-98.597024697
NWO-2013-2283-BIS #A020	PEM1	DEPRESS	Area	0.931	ACRE	ISOLATE	47.161704948	-98.599234072
NWO-2013-2283-BIS #A024	PEM2	DEPRESS	Area	0.286	ACRE	ISOLATE	47.170994317	-98.627920386
NWO-2013-2283-BIS #A025	PEM1	DEPRESS	Area	1.631	ACRE	ISOLATE	47.168672327	-98.614207091
NWO-2013-2283-BIS #A027	PEM2	DEPRESS	Area	0.325	ACRE	ISOLATE	47.174498059	-98.608250775
NWO-2013-2283-BIS #A028	PEM	DEPRESS	Area	14.403	ACRE	ISOLATE	47.245322979	-98.633960667
NWO-2013-2283-BIS #A032	PEM2	DEPRESS	Area	0.515	ACRE	ISOLATE	47.236014711	-98.602004979
NWO-2013-2283-BIS #A036	PEM1	DEPRESS	Area	2.745	ACRE	ISOLATE	47.235460250	-98.623552711
NWO-2013-2283-BIS #A037	PEM2	DEPRESS	Area	1.106	ACRE	ISOLATE	47.239372481	-98.624303951
NWO-2013-2283-BIS #A038	PEM	DEPRESS	Area	1.259	ACRE	ISOLATE	47.234436687	-98.622203327
NWO-2013-2283-BIS #A039	PEM2	DEPRESS	Area	0.463	ACRE	ISOLATE	47.233233648	-98.620901780
NWO-2013-2283-BIS #A040	PEM1	DEPRESS	Area	8.073	ACRE	ISOLATE	47.229963473	-98.616142951
NWO-2013-2283-BIS #A041	PEM	DEPRESS	Area	1.144	ACRE	ISOLATE	47.227093862	-98.615335722
NWO-2013-2283-BIS #A042	PEM1	DEPRESS	Area	3.336	ACRE	ISOLATE	47.226222320	-98.595294090
NWO-2013-2283-BIS #A043	PEM1	DEPRESS	Area	1.036	ACRE	ISOLATE	47.226194644	-98.593949961
NWO-2013-2283-BIS #A044	PEM2	DEPRESS	Area	0.156	ACRE	ISOLATE	47.228301253	-98.597725345
NWO-2013-2283-BIS #A045	PEM1	DEPRESS	Area	1.437	ACRE	ISOLATE	47.230460877	-98.597528048
NWO-2013-2283-BIS #A046	PEM2	DEPRESS	Area	0.069	ACRE	ISOLATE	47.231559538	-98.598491257
NWO-2013-2283-BIS #A047	PEM2	DEPRESS	Area	0.040	ACRE	ISOLATE	47.231920009	-98.598386949
NWO-2013-2283-BIS #A052	PEM2	DEPRESS	Area	0.215	ACRE	ISOLATE	47.223938498	-98.639058915
NWO-2013-2283-BIS #A053	PEM1	DEPRESS	Area	6.956	ACRE	ISOLATE	47.222271352	-98.640218085
NWO-2013-2283-BIS #A054	PEM2	DEPRESS	Area	0.061	ACRE	ISOLATE	47.219524151	-98.639101488
NWO-2013-2283-BIS #A055	PEM2	DEPRESS	Area	0.464	ACRE	ISOLATE	47.217759911	-98.639268814
NWO-2013-2283-BIS #A056	PEM1	DEPRESS	Area	7.756	ACRE	ISOLATE	47.216940012	-98.641866831
NWO-2013-2283-BIS #A057	L2	LACUSTRINF	Area	94.095	ACRE	ISOLATE	47.216825783	-98.650456673
NWO-2013-2283-BIS #A058	PEM2	DEPRESS	Area	0.460	ACRE	ISOLATE	47.217950660	-98.643795498
NWO-2013-2283-BIS #A062	PEM2	DEPRESS	Area	0.260	ACRE	ISOLATE	47.213034625	-98.639027162
NWO-2013-2283-BIS #A065	PEM1	DEPRESS	Area	24.299	ACRE	ISOLATE	47.210105790	-98.649808195
NWO-2013-2283-BIS #A066	PEM2	DEPRESS	Area	0.301	ACRE	ISOLATE	47.209632873	-98.645954638
NWO-2013-2283-BIS #A067	PEM2	DEPRESS	Area	0.600	ACRE	ISOLATE	47.209733507	-98.644983227
NWO-2013-2283-BIS #A068	PEM2	DEPRESS	Area	0.474	ACRE	ISOLATE	47.209194729	-98.637583795
NWO-2013-2283-BIS #A069	PEM1	DEPRESS	Area	1.868	ACRE	ISOLATE	47.218313351	-98.657038883
NWO-2013-2283-BIS #A070	L2EM	LACUSTRINF	Area	4.401	ACRE	ISOLATE	47.213777439	-98.661154869

NWO-2013-2283-BIS #A071	PEM2	DEPRESS	Area	0.279	ACRE	ISOLATE	47.124593338	-98.559677635
NWO-2013-2283-BIS #A074	PEM2	DEPRESS	Area	0.667	ACRE	ISOLATE	47.127598495	-98.555763672
NWO-2013-2283-BIS #A075	PEM1	DEPRESS	Area	2.065	ACRE	ISOLATE	47.128455415	-98.555386496
NWO-2013-2283-BIS #A076	PEM2	DEPRESS	Area	0.413	ACRE	ISOLATE	47.134794217	-98.562540093
NWO-2013-2283-BIS #A077	PEM1	DEPRESS	Area	2.246	ACRE	ISOLATE	47.126668854	-98.560554633
NWO-2013-2283-BIS #A078	PEM1	DEPRESS	Area	2.635	ACRE	ISOLATE	47.126935760	-98.564492086
NWO-2013-2283-BIS #A079	PEM2	DEPRESS	Area	0.263	ACRE	ISOLATE	47.126705306	-98.575861906
NWO-2013-2283-BIS #A085	L2	LACUSTRINF	Area	38.080	ACRE	ISOLATE	47.137392515	-98.572244995
NWO-2013-2283-BIS #A087	PEM1	DEPRESS	Area	4.522	ACRE	ISOLATE	47.136918759	-98.582357827
NWO-2013-2283-BIS #A089	PEM1	DEPRESS	Area	0.844	ACRE	ISOLATE	47.165262405	-98.568753679
NWO-2013-2283-BIS #A090	PEM2	DEPRESS	Area	0.120	ACRE	ISOLATE	47.163365054	-98.565388250
NWO-2013-2283-BIS #A091	PEM1	DEPRESS	Area	4.197	ACRE	ISOLATE	47.163444074	-98.570181465
NWO-2013-2283-BIS #A092	PEM1	DEPRESS	Area	1.057	ACRE	ISOLATE	47.162116899	-98.568162588
NWO-2013-2283-BIS #A093	L2EM	LACUSTRINF	Area	4.883	ACRE	ISOLATE	47.161134463	-98.567697116
NWO-2013-2283-BIS #A094	L2	LACUSTRINF	Area	8.513	ACRE	ISOLATE	47.157843431	-98.569388550
NWO-2013-2283-BIS #A095	PEM1	DEPRESS	Area	0.370	ACRE	ISOLATE	47.156173140	-98.569381083
NWO-2013-2283-BIS #A096	L2	LACUSTRINF	Area	21.608	ACRE	ISOLATE	47.153802904	-98.572195170
NWO-2013-2283-BIS #A097	L2EM	LACUSTRINF	Area	5.992	ACRE	ISOLATE	47.150997252	-98.571004043
NWO-2013-2283-BIS #A098	PEM1	DEPRESS	Area	1.487	ACRE	ISOLATE	47.148036538	-98.570378310
NWO-2013-2283-BIS #A099	PEM2	DEPRESS	Area	0.402	ACRE	ISOLATE	47.148351692	-98.567655319
NWO-2013-2283-BIS #A100	PEM	DEPRESS	Area	1.280	ACRE	ISOLATE	47.147964049	-98.566314783
NWO-2013-2283-BIS #A101	PEM2	DEPRESS	Area	1.285	ACRE	ISOLATE	47.148442397	-98.572097055
NWO-2013-2283-BIS #A102	PEM2	DEPRESS	Area	0.768	ACRE	ISOLATE	47.148963493	-98.574280716
NWO-2013-2283-BIS #A104	PEM1	DEPRESS	Area	3.340	ACRE	ISOLATE	47.146914514	-98.573581085
NWO-2013-2283-BIS #A105	L2	LACUSTRINF	Area	19.765	ACRE	ISOLATE	47.145184476	-98.575323417
NWO-2013-2283-BIS #A106	PEM1	DEPRESS	Area	0.867	ACRE	ISOLATE	47.159246698	-98.569966334
NWO-2013-2283-BIS #A118	PEM2	DEPRESS	Area	0.140	ACRE	ISOLATE	47.163023682	-98.563334874
NWO-2013-2283-BIS #A120	PEM1	DEPRESS	Area	3.039	ACRE	ISOLATE	47.215187170	-98.614411393
NWO-2013-2283-BIS #A122	L2UB	LACUSTRINF	Area	1.678	ACRE	ISOLATE	47.179495419	-98.633317781
NWO-2013-2283-BIS #A131	PEM1	DEPRESS	Area	4.925	ACRE	ISOLATE	47.169193790	-98.597650193
NWO-2013-2283-BIS #A132	PEM2	DEPRESS	Area	0.201	ACRE	ISOLATE	47.191302643	-98.594902284
NWO-2013-2283-BIS #A133	PEM2	DEPRESS	Area	0.107	ACRE	ISOLATE	47.192700689	-98.596017005
NWO-2013-2283-BIS #A134	PEM2	DEPRESS	Area	0.070	ACRE	ISOLATE	47.209519419	-98.630508220
NWO-2013-2283-BIS #A137	PEM2	DEPRESS	Area	0.252	ACRE	ISOLATE	47.182175967	-98.573092098
NWO-2013-2283-BIS #A141	PEM2	DEPRESS	Area	0.456	ACRE	ISOLATE	47.177564612	-98.593455441
NWO-2013-2283-BIS #A143	PEM2	DEPRESS	Area	1.175	ACRE	ISOLATE	47.208441844	-98.631316282
NWO-2013-2283-BIS #A148	PEM2	DEPRESS	Area	0.344	ACRE	ISOLATE	47.182585831	-98.619256589
NWO-2013-2283-BIS #A154	PEM1	DEPRESS	Area	0.942	ACRE	ISOLATE	47.233699648	-98.595964300
NWO-2013-2283-BIS #A157	PEM2	DEPRESS	Area	0.291	ACRE	ISOLATE	47.236304133	-98.595681520
NWO-2013-2283-BIS #A160	PEM2	DEPRESS	Area	0.403	ACRE	ISOLATE	47.220410893	-98.597383435
NWO-2013-2283-BIS #A162	PEM2	DEPRESS	Area	0.193	ACRE	ISOLATE	47.194054520	-98.564331826
NWO-2013-2283-BIS #A170	PEM1	DEPRESS	Area	1.209	ACRE	ISOLATE	47.224703003	-98.580118978
NWO-2013-2283-BIS #A171	PEM2	DEPRESS	Area	6.214	ACRE	ISOLATE	47.224284177	-98.583636890
NWO-2013-2283-BIS #B004	PEM1	DEPRESS	Area	2.005	ACRE	ISOLATE	47.193413972	-98.557452017
NWO-2013-2283-BIS #B006	PEM	DEPRESS	Area	1.132	ACRE	ISOLATE	47.193180174	-98.563697648

NWO-2013-2283-BIS #B008	PEM1	DEPRESS	Area	11.550	ACRE	ISOLATE	47.191882087	-98.568070694
NWO-2013-2283-BIS #B009	L2EM	LACUSTRINF	Area	12.358	ACRE	ISOLATE	47.194196312	-98.568251595
NWO-2013-2283-BIS #B015	PEM2	DEPRESS	Area	0.118	ACRE	ISOLATE	47.178880142	-98.597658330
NWO-2013-2283-BIS #B016	PEM1	DEPRESS	Area	1.169	ACRE	ISOLATE	47.179259998	-98.599042413
NWO-2013-2283-BIS #B017	PEM1	DEPRESS	Area	15.044	ACRE	ISOLATE	47.180033608	-98.598769579
NWO-2013-2283-BIS #B018	L2	LACUSTRINF	Area	11.389	ACRE	ISOLATE	47.180209354	-98.604424505
NWO-2013-2283-BIS #B020	PEM2	DEPRESS	Area	0.041	ACRE	ISOLATE	47.179881875	-98.615893867
NWO-2013-2283-BIS #B021	PEM1	DEPRESS	Area	1.255	ACRE	ISOLATE	47.180498772	-98.613695485
NWO-2013-2283-BIS #B024	PEM1	DEPRESS	Area	1.695	ACRE	ISOLATE	47.178646888	-98.605600233
NWO-2013-2283-BIS #B026	PEM1	DEPRESS	Area	7.897	ACRE	ISOLATE	47.180728683	-98.626193669
NWO-2013-2283-BIS #B028	PEM2	DEPRESS	Area	0.082	ACRE	ISOLATE	47.176086654	-98.628001111
NWO-2013-2283-BIS #B029	PEM2	DEPRESS	Area	0.114	ACRE	ISOLATE	47.177916888	-98.627201565
NWO-2013-2283-BIS #B030	PEM2	DEPRESS	Area	0.482	ACRE	ISOLATE	47.192096132	-98.635553741
NWO-2013-2283-BIS #B032	PEM1	DEPRESS	Area	1.296	ACRE	ISOLATE	47.192303932	-98.626401682
NWO-2013-2283-BIS #B034	PEM2	DEPRESS	Area	2.871	ACRE	ISOLATE	47.193251013	-98.631410264
NWO-2013-2283-BIS #B038	PEM2	DEPRESS	Area	0.218	ACRE	ISOLATE	47.193092977	-98.620676932
NWO-2013-2283-BIS #B039	PEM1	DEPRESS	Area	0.214	ACRE	ISOLATE	47.189286179	-98.624434235
NWO-2013-2283-BIS #B040	PEM1	DEPRESS	Area	1.229	ACRE	ISOLATE	47.220982571	-98.600494457
NWO-2013-2283-BIS #B044	PEM1	DEPRESS	Area	1.543	ACRE	ISOLATE	47.216812760	-98.596947108
NWO-2013-2283-BIS #B046	L2EM	LACUSTRINF	Area	0.952	ACRE	ISOLATE	47.213015491	-98.596303901
NWO-2013-2283-BIS #B048	PEM2	DEPRESS	Area	0.363	ACRE	ISOLATE	47.212562833	-98.609977322
NWO-2013-2283-BIS #B049	L2	LACUSTRINF	Area	7.925	ACRE	ISOLATE	47.215299246	-98.611642945
NWO-2013-2283-BIS #B050	PEM1	DEPRESS	Area	1.931	ACRE	ISOLATE	47.217452868	-98.612025176
NWO-2013-2283-BIS #B051	PEM1	DEPRESS	Area	2.147	ACRE	ISOLATE	47.219033047	-98.613350285
NWO-2013-2283-BIS #B052a	PEM1	DEPRESS	Area	15.513	ACRE	ISOLATE	47.223192773	-98.593313489
NWO-2013-2283-BIS #B053	PEM2	DEPRESS	Area	0.232	ACRE	ISOLATE	47.224760731	-98.615104374
NWO-2013-2283-BIS #B054	PEM1	DEPRESS	Area	1.804	ACRE	ISOLATE	47.221134296	-98.614689897
NWO-2013-2283-BIS #B058	PEM2	DEPRESS	Area	0.202	ACRE	ISOLATE	47.209072026	-98.632136597
NWO-2013-2283-BIS #B061	PEM1	DEPRESS	Area	0.285	ACRE	ISOLATE	47.208384262	-98.623742624
NWO-2013-2283-BIS #B062	L2	LACUSTRINF	Area	62.409	ACRE	ISOLATE	47.208410523	-98.613185453
NWO-2013-2283-BIS #B064	PEM2	DEPRESS	Area	0.596	ACRE	ISOLATE	47.210805642	-98.597520325
NWO-2013-2283-BIS #B065	PEM1	DEPRESS	Area	12.436	ACRE	ISOLATE	47.209233551	-98.598243152
NWO-2013-2283-BIS #B067	PEM2	DEPRESS	Area	0.766	ACRE	ISOLATE	47.210966493	-98.602783612
NWO-2013-2283-BIS #B068	PEM1	DEPRESS	Area	0.379	ACRE	ISOLATE	47.202416757	-98.636532100
NWO-2013-2283-BIS #B070	L2	LACUSTRINF	Area	22.320	ACRE	ISOLATE	47.202083543	-98.631059325
NWO-2013-2283-BIS #B071	PEM1	DEPRESS	Area	3.342	ACRE	ISOLATE	47.202704025	-98.624640267
NWO-2013-2283-BIS #B072	PEM1	DEPRESS	Area	1.987	ACRE	ISOLATE	47.203673029	-98.624132958
NWO-2013-2283-BIS #B073	PEM1	DEPRESS	Area	0.564	ACRE	ISOLATE	47.203571859	-98.622744428
NWO-2013-2283-BIS #B074	PEM2	DEPRESS	Area	0.401	ACRE	ISOLATE	47.203410059	-98.620461180
NWO-2013-2283-BIS #B079	PEM2	DEPRESS	Area	0.401	ACRE	ISOLATE	47.184281028	-98.623418539
NWO-2013-2283-BIS #B080	L2EM	LACUSTRINF	Area	10.637	ACRE	ISOLATE	47.194898334	-98.646963434
NWO-2013-2283-BIS #B081	PEM1	DEPRESS	Area	1.118	ACRE	ISOLATE	47.195366403	-98.654038900
NWO-2013-2283-BIS #B082	PEM1	DEPRESS	Area	5.458	ACRE	ISOLATE	47.202166011	-98.650435015
NWO-2013-2283-BIS #B083	PEM2	DEPRESS	Area	0.529	ACRE	ISOLATE	47.201642678	-98.647991971
NWO-2013-2283-BIS #B085	PEM1	DEPRESS	Area	2.724	ACRE	ISOLATE	47.196415313	-98.644853206

NWO-2013-2283-BIS #B090	PEM2	DEPRESS	Area	0.319	ACRE	ISOLATE	47.144666625	-98.578332165
NWO-2013-2283-BIS #B092	PEM2	DEPRESS	Area	0.207	ACRE	ISOLATE	47.131391920	-98.586725875
NWO-2013-2283-BIS #C002	PEM2	DEPRESS	Area	1.716	ACRE	ISOLATE	47.202912661	-98.643895543
NWO-2013-2283-BIS #C004	PEM1	DEPRESS	Area	2.586	ACRE	ISOLATE	47.201795555	-98.646303496
NWO-2013-2283-BIS #C006	PEM1	DEPRESS	Area	2.659	ACRE	ISOLATE	47.121460798	-98.634132883
NWO-2013-2283-BIS #C007	PEM2	DEPRESS	Area	0.479	ACRE	ISOLATE	47.121556151	-98.632962611
NWO-2013-2283-BIS #C014	PEM2	DEPRESS	Area	0.517	ACRE	ISOLATE	47.129622827	-98.628484999
NWO-2013-2283-BIS #C015	PEM1	DEPRESS	Area	0.773	ACRE	ISOLATE	47.129711711	-98.626964842
NWO-2013-2283-BIS #C016	L2	LACUSTRINF	Area	26.446	ACRE	ISOLATE	47.128533924	-98.623259313
NWO-2013-2283-BIS #C019	PEM1	DEPRESS	Area	0.303	ACRE	ISOLATE	47.140941119	-98.627516928
NWO-2013-2283-BIS #C020	PEM1	DEPRESS	Area	3.417	ACRE	ISOLATE	47.141983675	-98.628136767
NWO-2013-2283-BIS #C021	PEM	DEPRESS	Area	65.312	ACRE	ISOLATE	47.143457186	-98.623531570
NWO-2013-2283-BIS #C022	PEM2	DEPRESS	Area	0.186	ACRE	ISOLATE	47.141899146	-98.626454957
NWO-2013-2283-BIS #C023	PEM1	DEPRESS	Area	0.806	ACRE	ISOLATE	47.140295811	-98.633957220
NWO-2013-2283-BIS #C024	PEM1	DEPRESS	Area	0.432	ACRE	ISOLATE	47.140209869	-98.636389286
NWO-2013-2283-BIS #C027	PEM1	DEPRESS	Area	0.412	ACRE	ISOLATE	47.165536611	-98.597592322
NWO-2013-2283-BIS #C029	PEM1	DEPRESS	Area	7.872	ACRE	ISOLATE	47.161601734	-98.608729998
NWO-2013-2283-BIS #C032	PEM1	DEPRESS	Area	5.370	ACRE	ISOLATE	47.168839511	-98.595267359
NWO-2013-2283-BIS #C033	PEM1	DEPRESS	Area	1.353	ACRE	ISOLATE	47.169573837	-98.632884279
NWO-2013-2283-BIS #C034	PEM1	DEPRESS	Area	1.736	ACRE	ISOLATE	47.170750612	-98.632274904
NWO-2013-2283-BIS #C035	PEM1	DEPRESS	Area	0.733	ACRE	ISOLATE	47.168021399	-98.624116735
NWO-2013-2283-BIS #C038	PEM1	DEPRESS	Area	3.784	ACRE	ISOLATE	47.213661330	-98.623059020
NWO-2013-2283-BIS #C041	PEM1	DEPRESS	Area	3.668	ACRE	ISOLATE	47.212714378	-98.619288748
NWO-2013-2283-BIS #C042	PEM1	DEPRESS	Area	1.888	ACRE	ISOLATE	47.214775729	-98.617877066
NWO-2013-2283-BIS #C043	PEM1	DEPRESS	Area	4.401	ACRE	ISOLATE	47.214484830	-98.616190043
NWO-2013-2283-BIS #C045	PEM1	DEPRESS	Area	15.941	ACRE	ISOLATE	47.203548976	-98.598711432
NWO-2013-2283-BIS #C049	PEM1	DEPRESS	Area	2.640	ACRE	ISOLATE	47.201373145	-98.608046332
NWO-2013-2283-BIS #C050	L2	LACUSTRINF	Area	34.244	ACRE	ISOLATE	47.202353566	-98.616373942
NWO-2013-2283-BIS #C052	PEM2	DEPRESS	Area	1.225	ACRE	ISOLATE	47.197766408	-98.596103170
NWO-2013-2283-BIS #C053	PEM2	DEPRESS	Area	0.398	ACRE	ISOLATE	47.196563430	-98.596488359
NWO-2013-2283-BIS #C054	PEM2	DEPRESS	Area	0.116	ACRE	ISOLATE	47.194515343	-98.595124258
NWO-2013-2283-BIS #C056	PEM1	DEPRESS	Area	3.379	ACRE	ISOLATE	47.192564091	-98.597689656
NWO-2013-2283-BIS #C058	PEM	DEPRESS	Area	13.359	ACRE	ISOLATE	47.191368844	-98.613369178
NWO-2013-2283-BIS #C059	PEM2	DEPRESS	Area	0.699	ACRE	ISOLATE	47.193081065	-98.596603485
NWO-2013-2283-BIS #C060	PEM2	DEPRESS	Area	0.567	ACRE	ISOLATE	47.197828247	-98.590014673
NWO-2013-2283-BIS #C061	PEM2	DEPRESS	Area	0.869	ACRE	ISOLATE	47.199500420	-98.588338717
NWO-2013-2283-BIS #C062	PEM	DEPRESS	Area	24.920	ACRE	ISOLATE	47.200919896	-98.581741069
NWO-2013-2283-BIS #C063	PEM1	DEPRESS	Area	3.619	ACRE	ISOLATE	47.202920194	-98.573029286
NWO-2013-2283-BIS #C065	PEM1	DEPRESS	Area	8.210	ACRE	ISOLATE	47.201802953	-98.579251642
NWO-2013-2283-BIS #C066	PEM1	DEPRESS	Area	3.195	ACRE	ISOLATE	47.198615231	-98.567620999
NWO-2013-2283-BIS #C068	PEM2	DEPRESS	Area	0.691	ACRE	ISOLATE	47.188752447	-98.593834730
NWO-2013-2283-BIS #C069	PEM2	DEPRESS	Area	0.095	ACRE	ISOLATE	47.182409995	-98.592980662
NWO-2013-2283-BIS #C070	PEM2	DEPRESS	Area	0.519	ACRE	ISOLATE	47.182915188	-98.592720703
NWO-2013-2283-BIS #C071	PEM2	DEPRESS	Area	0.259	ACRE	ISOLATE	47.183830541	-98.592465098
NWO-2013-2283-BIS #C072	PEM2	DEPRESS	Area	0.161	ACRE	ISOLATE	47.184391840	-98.592240013

NWO-2013-2283-BIS #C073	PEM1	DEPRESS	Area	3.074	ACRE	ISOLATE	47.184442524	-98.593557875
NWO-2013-2283-BIS #C074	PEM1	DEPRESS	Area	0.310	ACRE	ISOLATE	47.186443451	-98.585379765
NWO-2013-2283-BIS #C075	PEM1	DEPRESS	Area	1.796	ACRE	ISOLATE	47.186889361	-98.583984003
NWO-2013-2283-BIS #C076	PEM1	DEPRESS	Area	2.491	ACRE	ISOLATE	47.185959183	-98.582117303
NWO-2013-2283-BIS #C077	PEM1	DEPRESS	Area	0.265	ACRE	ISOLATE	47.185498778	-98.582402610
NWO-2013-2283-BIS #C079	L2	LACUSTRINF	Area	21.348	ACRE	ISOLATE	47.183254477	-98.586395203
NWO-2013-2283-BIS #C083	PEM2	DEPRESS	Area	0.366	ACRE	ISOLATE	47.181981271	-98.592774720
NWO-2013-2283-BIS #C084	PEM1	DEPRESS	Area	1.193	ACRE	ISOLATE	47.181220931	-98.593823289
NWO-2013-2283-BIS #C087	PEM	DEPRESS	Area	16.049	ACRE	ISOLATE	47.174901095	-98.593776623
NWO-2013-2283-BIS #C088	PEM2	DEPRESS	Area	0.130	ACRE	ISOLATE	47.173702428	-98.593462937
NWO-2013-2283-BIS #C091	PEM1	DEPRESS	Area	1.568	ACRE	ISOLATE	47.174288269	-98.590537065
NWO-2013-2283-BIS #C092	PEM2	DEPRESS	Area	0.392	ACRE	ISOLATE	47.174472573	-98.589178119
NWO-2013-2283-BIS #C093	PEM1	DEPRESS	Area	3.066	ACRE	ISOLATE	47.174887489	-98.586842841
NWO-2013-2283-BIS #C094	PEM1	DEPRESS	Area	0.619	ACRE	ISOLATE	47.177512249	-98.588096614
NWO-2013-2283-BIS #C095	PEM2	DEPRESS	Area	0.175	ACRE	ISOLATE	47.180599211	-98.592948759
NWO-2013-2283-BIS #C096	PEM1	DEPRESS	Area	12.679	ACRE	ISOLATE	47.179716478	-98.587112225
NWO-2013-2283-BIS #C097	PEM2	DEPRESS	Area	0.871	ACRE	ISOLATE	47.177219135	-98.583963000
NWO-2013-2283-BIS #C101	PEM	DEPRESS	Area	25.119	ACRE	ISOLATE	47.171198075	-98.572472255
NWO-2013-2283-BIS #C102	PEM1	DEPRESS	Area	1.509	ACRE	ISOLATE	47.172107597	-98.571851983
NWO-2013-2283-BIS #C103	PEM2	DEPRESS	Area	0.198	ACRE	ISOLATE	47.172972593	-98.572768421
NWO-2013-2283-BIS #C104	PEM2	DEPRESS	Area	0.242	ACRE	ISOLATE	47.174709592	-98.575381922
NWO-2013-2283-BIS #C106	PEM1	DEPRESS	Area	0.723	ACRE	ISOLATE	47.176748935	-98.577223577
NWO-2013-2283-BIS #C108	PEM1	DEPRESS	Area	1.265	ACRE	ISOLATE	47.179162327	-98.581402435
NWO-2013-2283-BIS #C110	PEM2	DEPRESS	Area	0.845	ACRE	ISOLATE	47.180823747	-98.575598905
NWO-2013-2283-BIS #C111	PEM1	DEPRESS	Area	4.809	ACRE	ISOLATE	47.178943269	-98.573249626
NWO-2013-2283-BIS #C113b	PEM2	DEPRESS	Area	10.444	ACRE	ISOLATE	47.173228506	-98.565610683
NWO-2013-2283-BIS #C122	PEM1	DEPRESS	Area	12.353	ACRE	ISOLATE	47.170691164	-98.550411241
NWO-2013-2283-BIS #C123	PEM1	DEPRESS	Area	5.223	ACRE	ISOLATE	47.162483526	-98.559807853
NWO-2013-2283-BIS #C125	PEM2	DEPRESS	Area	1.639	ACRE	ISOLATE	47.163788060	-98.556727261
NWO-2013-2283-BIS #C127	PEM1	DEPRESS	Area	31.047	ACRE	ISOLATE	47.164925959	-98.553972908
NWO-2013-2283-BIS #C130	PEM2	DEPRESS	Area	0.151	ACRE	ISOLATE	47.165608122	-98.551365004

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Geronimo Energy	File Number: NWO-2013-2283-BIS	Date: Dec 26, 2013
Attached is:		See Section below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input checked="" type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found in Corps regulations at 33 CFR Part 331, or at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/FederalRegulation.aspx>

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

US Army Corps of Engineers, Omaha District
North Dakota Regulatory Office
Attn: Mr. Daniel E. Cimarosti
1513 South 12th Street
Bismarck, North Dakota 58504

If you only have questions regarding the appeal process you may also contact:

US Army Corps of Engineers, Northwestern Division
Attn: Mary Hoffman, Regulatory Appeals Review Officer
1125 NW Couch Street
Portland, OR 97208-2870 Telephone (503) 808-3888
Mary.J.Hoffman@usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number: